

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Region 4

245 West Broadway, Suite 350
Long Beach, CA 90802-4444

April 3, 1992

Mr. Laurence S. Wilken
Solar Turbines, Incorporated
2200 Pacific Highway
San Diego, California 92138-5376

Dear Mr. Wilken:

CORRECTIVE ACTION ORDER, DOCKET NO. DO91/92-4-001

The Department of Toxic Substances Control (Department) has reviewed changes you have requested, in your letter dated March 30, 1992 and subsequent conversations with Mr. Daniel Weingarten our Office Legal Counsel, concerning the Department's Stipulation and Order. The Department has incorporated these changes.

Enclosed please find this revised Stipulation and Order for your signature. We ask that you sign and forward the original to my attention at the above address.

If you have any questions, please contact me at
(310) 590-5917.

Sincerely,

A handwritten signature in cursive script that reads 'Maria G. Durand'.

Maria G. Durand
Unit Chief
Surveillance and Enforcement Branch

Enclosure



STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA <u>D091/92-4-001</u>
)	
Solar Turbines Incorporated)	STIPULATION AND ORDER
(Harbor Drive Plant))	
2200 Pacific Highway)	Health and Safety Code
San Diego, CA 92138-5376)	Section 25187
)	
Respondent.)	

The State Department of Toxic Substances Control (Department) and Solar Turbines Incorporated (Respondent) enter into this Stipulation and Order (Stipulation and Order) and agree as follows:

1. A dispute exists regarding the Corrective Action Order and Complaint for Penalty (Order and Complaint) issued by the Department on July 8, 1991. (Attached as Exhibit 1.)

2. Respondent does not admit the allegations made in the Order and Complaint, except as follows: Respondent admits the allegations made in the Order and Complaint for the purposes of any subsequent action for an alleged repeat or continuing violation directly related to a specific allegation made in the Order and Complaint or where the violation or noncompliance shows a repeating or recurring pattern brought pursuant to the Hazardous Waste Control Act, Health and Safety Code section 25100 et seq., within five years of the date of the violations alleged in the Order and Complaint.

3. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.

1 4. Jurisdiction exists pursuant to Health and Safety Code (HSC)
2 section 25187.

3 5. Respondent waives any right to a hearing in this matter.

4 6. This Stipulation and Order shall constitute full settlement
5 of the violations alleged in the Order and Compliant, but does not
6 limit the Department from taking appropriate enforcement action
7 concerning other violations.

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9 SCHEDULE FOR COMPLIANCE

10 7. Respondent shall comply with the following:

11 7.1. Respondent shall correct the alleged violations as specified
12 in paragraph 3 of the Order and Complaint attached to this Stipulation
13 and Order. The Department acknowledges its receipt of Respondent's
14 Certificate of Compliance, dated September 24, 1991 in satisfaction of
15 this requirement. (Attached as Exhibit 2.)

16 7.2. Submittals: All submittals from Respondent pursuant to this
17 Stipulation and Order shall be sent to:

18 Mr. John A. Hinton, P.E.
19 Regional Administrator
20 Department of Toxic Substances Control
245 West Broadway, Suite 350
Long Beach, California 90802

21 7.3. Communications: All approvals and decisions of the
22 Department made regarding such submittals and notifications shall be
23 communicated to Respondent in writing by a Regional Administrator,
24 Department of Toxic Substances Control, or his/her designee. No
25 informal advice, guidance, suggestions, or comments by the Department
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1 regarding reports, plans, specifications, schedules, or any other
2 writings by Respondent shall be construed to relieve Respondent of its
3 obligation to obtain such formal approvals as may be required.

4 7.4. Department Review and Approval: If the Department
5 determines that any report, plan, schedule, or other document
6 submitted for approval pursuant to this Stipulation and Order fails to
7 comply with the Stipulation and Order or fails to protect public
8 health or safety or the environment, the Department may:

9 a. Modify the document as deemed necessary and approve the
10 document as modified or

11 b. Return the document to Respondent with recommended
12 changes and a date by which Respondent must submit to the Department a
13 revised document incorporating the recommended changes.

14 7.5. Compliance with Applicable Laws: Respondent shall carry out
15 this Stipulation and Order in compliance with all local, State, and
16 Federal requirements, including but not limited to requirements to
17 obtain permits and to assure worker safety.

18 7.6. Endangerment during Implementation: In the event that the
19 Department determines that any circumstances or activity (whether or
20 not pursued in compliance with this Stipulation and Order) are
21 creating an imminent or substantial endangerment to the health or
22 welfare of people on the site or in the surrounding area or to the
23 environment, the Department may order Respondent to stop further
24 implementation of this Stipulation and Order for such period of time
25 as needed to abate the endangerment. Any deadline in this Stipulation
26 and Order directly affected by a Stop Work Order under this section
27 shall be extended for the term of such Stop Work Order.

1 7.7. Liability: Nothing in this Stipulation and Order shall
2 constitute or be construed as a satisfaction or release from liability
3 for any conditions or claims, other than those violations alleged in
4 the Order and Complaint arising as a result of past, current, or
5 future operations of Respondent. Notwithstanding compliance with the
6 terms of this Stipulation and Order, Respondent may be required to
7 take further actions as are necessary to protect public health or
8 welfare or the environment.

9 7.8. Site Access: Access to the Site shall be provided at all
10 reasonable times to employees, contractors, and consultants of the
11 Department, and any agency having jurisdiction. Nothing in this
12 Stipulation and Order is intended to limit in any way the right of
13 entry or inspection that any agency may otherwise have by operation of
14 any law. The Department and its authorized representatives may enter
15 and move freely about all property at the Site at all reasonable times
16 for purposes including but not limited to: inspecting records,
17 operating logs, and contracts relating to the Site; reviewing the
18 progress of Respondent in carrying out the terms of this Stipulation
19 and Order; and conducting such tests as the Department may deem
20 necessary. Respondent shall permit such persons to inspect and copy
21 all records, documents, and other writings, including all sampling and
22 monitoring data, in any way pertaining to work undertaken pursuant to
23 this Stipulation and Order.

24 7.9. Sampling, Data and Document Availability: Respondent shall
25 permit the Department and its authorized representatives to inspect
26 and copy all sampling, testing, monitoring, and other data generated
27 by Respondent or on Respondent's behalf in any way pertaining to work
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1 undertaken pursuant to this Stipulation and Order. Respondent shall
2 allow the Department and its authorized representatives to take
3 duplicates of any samples collected by Respondent pursuant to this
4 Stipulation and Order. Respondent shall maintain a central depository
5 of the data, reports, and other documents prepared pursuant to this
6 Stipulation and Order. All such data, reports, and other documents
7 shall be preserved by Respondent for a minimum of six years after the
8 conclusion of all activities under this Stipulation and Order. If the
9 Department requests that some or all of these documents be preserved
10 for a longer period of time, Respondent shall either comply with that
11 request, deliver the documents to the Department, or permit the
12 Department to copy the documents prior to destruction. Respondent
13 shall notify the Department in writing at least six months prior to
14 destroying any documents prepared pursuant to this Stipulation and
15 Order.

16 7.10. Government Liabilities: The State of California shall not
17 be liable for injuries or damages to persons or property resulting
18 from acts or omissions by Respondent or related parties specified in
19 paragraph 7.17 in carrying out activities pursuant to this Stipulation
20 and Order, nor shall the State of California be held as a party to any
21 contract entered into by Respondent or its agents in carrying out
22 activities pursuant to this Stipulation and Order.

23 7.11. Additional Enforcement Actions: By agreeing to this
24 Stipulation and Order, the Department does not waive the right to take
25 further enforcement actions.
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1 7.12. Incorporation of Plans and Reports: All plans, schedules,
2 and reports that require Department approval and are submitted by
3 Respondent pursuant to this Stipulation and Order are incorporated in
4 this Stipulation and Order upon approval by the Department.

5 7.13. Extension Requests: If Respondent is unable to perform any
6 activity or submit any document within the time required under this
7 stipulation and Order, the Respondent may, prior to expiration of the
8 time, request an extension of time in writing. The extension request
9 shall include a justification for the delay.

10 7.14. Extension Approval: If the Department determines that good
11 cause exists for an extension, it will grant the request and specify
12 in writing a new compliance schedule.

13 7.15. Penalties for Noncompliance: Failure to comply with the
14 terms of this Stipulation and Order may subject Respondent to civil
15 penalties and/or punitive damages for any costs incurred by the
16 Department or other government agencies as a result of such failure,
17 as provided by HSC section 25188 and other applicable provisions of
18 law.

19 7.16. Parties Bound: This Stipulation and Order shall apply to
20 and be binding upon Respondent and its officers, directors, agents,
21 receivers, trustees, employees, contractors, consultants, successors,
22 and assignees, including but not limited to individuals, partners, and
23 subsidiary and parent corporations, and upon any successor agency of
24 the State of California that may have responsibility for and
25 jurisdiction over the subject matter of this Stipulation and Order.

7.17. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

PENALTY

8. Respondent shall pay the Department a penalty of \$28,000.00. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Within 30 days of the date this Stipulation and Order is fully executed Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control
Accounting Office
400 P Street, 4th Floor
P.O. Box 806
Sacramento, CA 95812-0806

A photocopy of the check shall be sent to:

Paula Rasmussen, Chief
Surveillance and Enforcement Branch
Department of Toxic Substances Control
245 West Broadway, Suite 350
Long Beach, CA 90802

Toxics Legal Office
Department of Toxic Substances Control
400 P Street, 4th Floor
P.O. Box 806
Sacramento, CA 95812-0806

1 The Department acknowledges its receipt of Respondent's check in
2 the amount of \$28,000 in satisfaction of this requirement (Attached as
3 Exhibit 3.)
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5 9. Each party shall bear its own cost and attorney's fees in
6 this matter.
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10 Dated: _____

Signature of Respondent's
Representative

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13 _____
Typed or Printed Name and Title of
Respondent's Representative
14

15 Dated: _____

Department of Toxic Substances
Control
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1 bcc: Mr. Don Johnson, Chief
2 Surveillance and Enforcement Branch
3 Department of Toxic Substances Control
4 P.O. Box 806
5 Sacramento, California 95812-0806

6 Mr. Val Siebal
7 Regional Administrator
8 Region 1
9 Department of Toxic Substances Control
10 10151 Croydon Way
11 Sacramento, California 95827

12 Mr. Howard Hatayama
13 Regional Administrator
14 Region 2
15 Department of Toxic Substances Control
16 700 Heinz Avenue
17 Berkeley, California 94710

18 Mr. Dennis Dickerson
19 Regional Administrator
20 Region 3
21 Department of Toxic Substances Control
22 1405 San Fernando Boulevard
23 Burbank, California 91504

24 Mr. Frank Laguna
25 Regional Coordinator
26 U. S. Environmental Protection Agency
27 Region IX
28 75 Hawthorne Street, Mail Stop H-4-1
San Francisco, California 94105

Ms. Theodora Berger
Assistant Attorney General
Office of the Attorney General
300 South Spring Street, Suite 500
Los Angeles, California 90013

Ms. Mary Avastu
San Diego County
Department of Environmental Protection
Hazardous Materials Management
1255 Imperial Avenue
San Diego, California 92101

1 bcc: Ms. Mary Locke
2 Chief Investigator
3 Office of Local Enforcement
4 Department of Toxic Substances Control
5 P.O. Box 806
6 Sacramento, California 95812-0806

7 Mr. James R. Cutright
8 Toxics Legal Office
9 Department of Toxic Substances Control
10 P.O. Box 806
11 Sacramento, California 95812-0806

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